

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CV-380-D

RITA R. THOMAS,

Plaintiff,

v.

GREEN POINT MORTGAGE FUNDING,
BANK OF AMERICA HOME LOANS, LP,
f/k/a COUNTRYWIDE HOME LOANS
SERVICING, LP, and MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendants.

ORDER

On June 16, 2011, this court dismissed Rita R. Thomas's pro se complaint against Green Point Mortgage Funding, Bank of America Home Loans, LP, and Mortgage Electronic Registration Systems, Inc. (collectively "defendants"). See Thomas v. Green Point Mortg. Funding, No. 5:10-CV-365-D, 2011 WL 2457835, at *1-3 (E.D.N.C. June 16, 2011) (unpublished). On July 20, 2011, Thomas (again appearing pro se) filed another action against Green Point Mortgage Funding, Bank of America Home Loans, LP, and Mortgage Electronic Registration Systems, Inc. [D.E. 1].

On August 16, 2011, Green Point Mortgage Funding filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(4), (5), and (6) for insufficient process, insufficient service of process, and failure to state a claim upon which relief can be granted [D.E. 4]. See Fed. R. Civ. P. 12(b)(4), (5), & (6). On August 25, 2011, Bank of America Home Loans, LP, and Mortgage Electronic Registration Systems, Inc., also filed a motion to dismiss pursuant to Rules 12(b)(4), (5), and (6) [D.E. 7]. On October 6, 2011, Thomas filed a largely incoherent document opposing the

motions to dismiss [D.E. 15]. On October 14, 2011, defendants replied [D.E. 16, 17]. On that same date, Thomas filed an amended complaint [D.E. 18] that is materially indistinguishable from her original complaint [D.E. 1].

The court will not restate the legal framework governing a motion under Rules 12(b)(4), (5), and (6). See Thomas, 2011 WL 2457835, at *1–3. Suffice it to say that Thomas has failed to comply with Rules 12(b)(4), (5), and (6) in this case. Thus, the court grants the motions to dismiss under Rules 12(b)(4), (5), and (6) and dismisses both the complaint and the amended complaint. See id.; see also Arthur v. Ticor Title Ins. Co., 569 F.3d 154, 160 n.2 (4th Cir. 2009); Jones v. Saxon Mortg., Inc., 537 F.3d 320, 327 (4th Cir. 1989) (per curiam); Rolfes v. Decision One Mortg. Co., No. 2:10-CV-66-D, 2011 WL 2133562, at *1 (E.D.N.C. May 27, 2011) (unpublished); Moseley v. Countrywide Home Loans, Inc., No. 7:09-CV-210-FL, 2010 WL 4484566, at *2 (E.D.N.C. Oct. 26, 2010) (unpublished).

When the court considers Thomas's original complaint filed on September 8, 2010, and considers her complaint and amended complaint filed in this action, Thomas has had three chances to state a claim and properly serve these defendants. She has failed all three times. Enough is enough. The motions to dismiss [D.E. 4, 7] are GRANTED and the complaint and amended complaint are DISMISSED with prejudice.

SO ORDERED. This 3 day of November 2011.


JAMES C. DEVER III
Chief United States District Judge